

San Francisco Bay Conservation and Development Commission

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October 28, 2022

TO: All Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Peggy Atwell, Director, Administrative & Technology Services (415/352-3638; peggy.atwell@bcdc.ca.gov)

SUBJECT: Approved Minutes of October 20, 2022 Hybrid Commission Meeting

[Note: Agenda Item 12 was taken out of order. These minutes reflect this Agenda Item as listed on the Agenda and not as taken in chronological order.]

1. **Call to Order.** The hybrid meeting was called to order by Acting Chair Randolph at 1:02 p.m. The meeting was held with a principal physical location of 375 Beale Street, San Francisco, California, and online via Zoom and teleconference.

Acting Chair Randolph stated: Welcome to our Hybrid BCDC Commission meeting. My name is Sean Randolph. I am stepping in for Chairman Wasserman today. Before we get started I have a couple of announcements. Item 11 on Alternative Project Siting has been postponed to a later meeting; and we are switching the order of Items 10 and 12 so we will have the Enforcement Update before the Budget Update.

Instructions for participation in the meeting were given.

Acting Chair Randolph asked Ms. Atwell to proceed with Agenda Item 2, Roll Call.

2. **Roll Call.** Present were: Acting Chair Randolph, Commissioners Addiego, Ahn, Beach, Brown (represented by Alternate Gilmore), Burt, Butt, Eckerle, Eklund, El-Tawansy (represented by Alternate Ambuehl), Gioia, Gorin, Gunther (represented by Alternate Bellin), Hasz, Lee (represented by Alternate Kishimoto), Lucchesi (represented by Alternate Pemberton), Moulton-Peters, Peskin, Pine, Ranchod, Showalter, Spering (represented by Alternate Vasquez) and Wagenknecht. Senator Skinner, (represented by Alternate McCoy) was also present.

Acting Chair Randolph announced that a quorum was present.

Not present were Commissioners: Department of Finance (Almy), U.S. Environmental Protection Agency (Blake), Governor (Eisen, Wasserman)

3. **Public Comment Period.** Acting Chair Randolph called for public comment on subjects that were not on the Agenda. He noted that one public comment letter had been received.



Acting Chair Randolph gave instructions for participating in the hybrid meeting. He emphasized the following: Commissioners must have their cameras on, instruction for public attendees was given, comments must be focused and respectful and emails received were noted.

Alison Madden commented: Hi, thank you. My name is Alison Madden and I'm an attorney in San Mateo County. And we have attended and spoken before. We spoke to you about Oyster Cove Marina. And again, very much appreciate the safe harbor there.

I am advising and consulting with them and we do believe the Tenant Protection Act wasn't followed there by the Kilroy Realty Company and the Tideline Management Company. And so, I think that there is still some issues to be determined there at Oyster Cove but many, many, people have moved over to the safe harbor at Oyster Point.

And we wanted to bring to your attention; we spoke a little bit last meeting. We're going to attend and speak, just one or two people for this couple of minutes.

At many of your meetings, we may miss one or two and as noted today, the Chair and Vice Chair up here, not to be here; not just on Oyster Cove but on the issue of live-aboards. We would like to attend your meetings and just speak and provide some information by public comment.

So, we want this to be very positive and proactive and we will certainly be judicious about the emails and attachments we send because we don't want to over-burden you there.

So, we want to say you have excellent attorneys. And there also have been citizen advocate and live-aboards for decades that have been living the issues that tend to show up at the BCDC including enforcement actions.

And just this weekend I had an hour-long conversation with a really fantastic harbormaster who has been a harbormaster before at Oyster Cove and is also now over at the Oakland and Alameda Marinas. And I've had also long conversations with other Redwood City harbormasters.

And one of the issues I want to bring to the attention of the Commission, and this is with the backdrop that the Commissioners talked about looking at the issues surrounding live-aboards and marinas and floating home communities. And it was noted that staff has really, has a lot on its plate and maybe this was put in the queue to look at over the next several months.

And so one of the issues I wanted to bring to the attention of the Commissions is the fear, really, and trepidation that some harbormasters and owners have over accepting working vessels that have operating engines that are capable of self-propulsion but because they have a flat top they're considered to be a quote, unquote, houseboat that is not allowed in any marina on the Bay under any BCDC permit; even though, it's a boat that has its own engine sometimes onboard, two working diesel engines and an outboard and it's completely capable of navigation. But because it has a flat top the harbormasters say, oh, it's a houseboat or I'm going to have enforcement against me by BCDC because they are going to say it's a houseboat.

And this is something that is very much happening and has been for decades and pretty much freezes out this type of vessel and people lose the value of their properties. So that's just one issue.

I appreciate my time is up. And we will be back with more later. Thank you.

Lucia Lachmayr addressed the Commission: Hi, my name is Lucia Lachmayr. I am a local teacher and I have lived at Oyster Cove Marina for about 11 years. I just wanted to let you know that we are so grateful that you helped with the assisting with a move for a lot of our tenants to move over to Oyster Point.

But the clock started ticking a while ago. It started in September and most people moved out in October. And from the Harbor District heard it's only six months. And you have to actively be looking and be ready, willing and able to move to somewhere that's far away or too expensive.

So I just wanted to thank you for what you have done but also to advocate, again, for that I hope that you're going to look at long-term strategy of increasing the number live-aboards allowed in the Bay Area.

We are bringing possibly, we weren't properly noticed according to the TPA. And so we do need time to find more slips. It is really super difficult finding anything. And people don't have many choices except for the Delta where their community is not there. Their homes are not there. Their jobs are not there.

My job is local and I use my boat as a place where I can commute quickly to work and avoid traffic and avoid, you know, spending a lot of fuel and resources. It's good for the environment. It's good for me. And it's good for my neighbors. So they all have either jobs or they're really well settled here.

So, we don't know where this marina is going to be. I don't know that you know exactly what they are except that I have looked under the Public Records Request. I did see that they're planning on building a two-story structure.

And I also saw that perhaps some kind of water taxi along those lines that Tideline was looking at doing a water taxi. So, if Kilroy is going to building a two-story structure on the Bay, we ask that if they have live-aboards there that that would be an improper eviction for us if they're going to have other live-aboards there.

But also that if they're going to be messing with the Bay, they said they couldn't dredge in our three docks but that's where they are going to have to dredge to build that; that they should do an environmental impact report since they said the reason they couldn't dredge was because the water was too toxic.

Since Tideline did the dredging and did the soils sample or sent in the soils sample, we think that that's a fair consideration as you move forward with this process.

So, thank you very much. I appreciate your time and your efforts and your energies. Thank you so much. And thank you for letting me comment.

Acting Chair Randolph moved to Approval of the Minutes.

4. **Approval of Minutes of the October 6, 2022 Meeting.** Acting Chair Randolph asked for a motion and a second to adopt the Minutes of October 6, 2022.

MOTION: Commissioner Kishimoto moved approval of the Minutes, seconded by Commissioner Ranchod.

The motion carried by a voice vote with no abstentions or opposition.

5. **Report of the Chair.** Acting Chair Randolph reported on the following:

Zack asked me to report that the Commission is establishing a Commissioner Working Group on Sediment and Beneficial Reuse. We all agree how important it is to use dredged Bay sediments to restore and maintain wetlands habitats and help protect the shoreline in the face of rising sea levels. This group will work with our staff and the public as we implement the U.S. EPA and Ocean Protection Council grants for this purpose that we received this past summer.

The Working Group will analyze strategies to increase beneficial reuse, help create a financing strategy to fund beneficial reuse, and work toward recommending a Bay Plan amendment to establish new and updated policies, including those addressing dredging and disposal.

Commissioner Gunther and Commissioner Showalter have agreed to become the group's Chair and Vice-Chair and they will be ably assisted by Commissioners Beach, Blake, Eklund, Kishimoto and Vasquez. Of course, all Commissioners will be welcome to attend the Working Group meetings.

The Financing the Future Working Group met this morning and I would like to ask Commissioner Peskin to provide a brief report out.

Commissioner Peskin reported the following: Thank you Acting Chair Randolph. A number of us met this morning and reviewed staff's presentation about what is being planned for adaptation and how much it will cost and how all of that information is being assembled as well as what funding sources exist and can be wheedled down to real funding sources.

The Working Group had suggestions about how to make that information more accessible and simple for decision makers and the public to consume; there you go.

Acting Chair Randolph acknowledged: thanks very much Commissioner Peskin. Would anybody else of the Working Group like to add anything to that? (No comments were voiced).

If not, thanks very, very much. I will move on to our next Agenda Item.

a. **Next BCDC Meeting.** Commissioners and members of the public, it is very important that you pay attention to my next announcement. Our next Commission meeting is scheduled for November 3. As we did at our last meeting we shall hold a very short business meeting and then adjourn into a workshop. This workshop will be designed to help us create a new Strategic Plan.

All Commissioners and Alternates are invited to attend the workshop and I hope that you all will. In addition, we will be inviting all of our Advisory Board members and, of course, members of the public.

b. **Ex-Parte Communications.** Commissioners, in case you have inadvertently forgotten to provide our staff with a report on any written or oral ex-parte communications, I invite Commissioners who have engaged in any such communications to report on them at this point by raising your hand and unmuting yourself. Please remember that your written report should be detailed enough for the public to understand the conversation’s main topics, but that your oral report should not be longer than two minutes. Peggy, has any Commissioner raised his or her hand?

Ms. Atwell replied: I do not see any hands raised, Acting Chair Randolph.

Acting Chair Randolph stated: Thank you very much. So we will move on to the Report of our Executive Director.

6. **Report of the Executive Director.** Executive Director Goldzband reported: Thank you, Acting Chair Randolph.

Especially in October, baseball and newspapers go together like hands in a glove. For example, on this date in 1848, Candy Cummings was born. According to baseball lore and various newspaper reports, Mr. Cummings changed the way that baseball was played some 25 or so years later when he invented the curveball – that totally unfair pitch that has caused millions of amateurs to fail as batters, including yours truly, and has bedeviled professionals as well.

Eighty-two years later, in 1930, Jimmy Breslin was born. As one of America’s most successful journalists and a Pulitzer Prize winner, Breslin hunted down politicians and others who threw curve balls at the public. “The Gang That Couldn’t Shoot Straight” and “How the Good Guys Finally Won” are two of his best-known works. They appeal to those would prefer that less spin from their leaders come to them than curveballs normally have.

And today as you learn about our thoughts for implementing Bay Adapt, our budget for this year, and our progress in enforcement, I hope that you will consider your staff to be straight shooters.

a. **HR and Budget.** Speaking of Bay Adapt, I want to let you know of our second new hire and promotion as we move into implementing that program. Unless you have concerns, I’m pleased to announce that Phoenix Armenta has been selected to be BCDC’s new Senior Manager for Climate Equity and Community Engagement.

While Phoenix’s tenure at BCDC has been brief, they haven’t wasted time. Phoenix took a lead role on the recent Racial Equity Workshop, is facilitating BCDC’s EJ Advisor program, including being a champion for securing more funding, and supports our permitting team on strategies to encourage meaningful community engagement in projects like the proposed Oakland Turning Basin.

Prior to joining BCDC, Phoenix worked on environmental, racial, and social justice campaigns locally and globally, including at the West Oakland Environmental Indicators Project, with the Mycelium Youth Network, and the Resilient Communities Initiative. Phoenix is a Bison from Howard University, from which they graduated with a degree in Anthropology and earned their graduate degree in Energy and Resources from UC Berkeley. So Phoenix is a member of our staff Cal Bears caucus.

b. **Policy.** In case you are not in the habit of reading reports from the State's Department of Finance, you might have missed that Finance reported that preliminary revenue estimates place the State at almost \$4.8 billion below its forecasted level which is over a 10% shortfall through this first quarter of this fiscal year. Combined with the \$2.2 billion revenue shortfall for the last fiscal year, the cumulative deficit being considered by Sacramento is now about \$7 billion through this first quarter of this fiscal year.

With that sobering note, I want to let you know of two important logistical issues. As Acting Chair Randolph noted, at our next meeting the Commission will hold a workshop to gain your input and the public's input on our draft Strategic Plan. Like we did two weeks ago for the Racial Equity Plan Workshop, we shall use a somewhat different linking process for this totally virtual meeting.

So, please be on the lookout as you were a few weeks ago for the link to the Workshop. Also, like you were for the Racial Equity Workshop two weeks ago, all Commissioners and Alternates are welcome to participate in the strategic planning workshop.

Finally, we're happy to note that October is the first month that you will receive your stipends directly and electronically. You'll find them as direct deposits toward the end of the month or in beginning of the following month.

That concludes my Report, Acting Chair Randolph, and I am happy to answer any questions.

Acting Chair Randolph asked: thanks very much, Larry. Any questions? (No questions were voiced).

7. **Consideration of Administrative Matters.** Acting Chair Randolph stated: Deputy Executive Director Steve Goldbeck is here if you have any questions regarding the Administrative Listings we mailed on October 14th. (No questions were voiced).

8. **Public Hearing and Possible Vote on Peninsula Innovation Point in the City of Burlingame, San Mateo County; BCDC Permit Application No. 1982.020.09.** Acting Chair Randolph announced: So we will move ahead now to Agenda Item 8, which is a public hearing and a possible vote on the Peninsula Innovation Point proposal in the city of Burlingame in San Mateo County, and Shruti Sinha from the Bay Shoreline Development Permitting Team is going to give us a briefing.

Shoreline Development Analyst Sinha presented the following: Good afternoon, Commissioners. My name is Shruti Sinha; I am a Shoreline Development Analyst at BCDC.

On October 7 you were mailed an Application Summary for a request for a material amendment to BCDC Permit Number 1982.020.09 by Peninsula Owner, LLC for the Peninsula Innovation Point Project, which includes developing an eight-story office and R&D building and a 5.5 level parking garage along an existing stretch of improved shoreline at 567 Airport Boulevard in the city of Burlingame, San Mateo County.

The project site is located on a 12.83-acre property in Burlingame, represented by the pin on this regional map.

If we zoom further in you can see that the site is at the southeast corner of Burlingame's Anza Peninsula where the Burlingame Lagoon meets the Sanchez Channel as shown here.

In 1983 the Commission first approved a permit for a project that resulted in the construction of the two existing office buildings labeled on this site plan as well as a 2.93- acre shoreline public access area. The project design was modified over time and the permit was amended on eight occasions to date.

The project before you today for Amendment No. 9 would construct a 241,679 square foot eight-story office and R&D building between the two existing office buildings and a 5.5-level parking garage in an area where there is currently a surface parking lot. The project would also improve the existing public access area along the shoreline with new amenities and flood resiliency measures.

The project would refresh the existing public access area by raising and repaving the Bay Trail for accessibility and widening it from 10 feet to 16 feet.

The Trail and surrounding public access area would be rebuilt about two and a half feet above the existing grade to provide flood resiliency.

The project would also install new picnic and seating areas along the Bay Trail and other amenities including a drinking fountain and bottle refill station, a bicycle fix-it station and wayfinding signage.

The project would also widen an access path connecting Airport Boulevard to the shoreline and majorly refresh the triangle pocket park on the southeastern edge of the site.

The existing permit already requires 15 public shore parking spaces. This project would retain those spaces and convert two of them to provide for ADA accessibility. Overall, the project would add approximately 5,933 square feet of new public access area beyond the 2.93 acres already required by the existing permit.

As to sea level rise, the project's primary approach to addressing rising sea levels involves raising the majority of the site, including the Bay Trail, to an elevation of 12.5 feet NAVD-88, which is anticipated to settle to 12.38 feet over time.

This elevation would protect the majority of the public access area from flooding in association with sea level rise and extreme storm events through 2050, assuming the projections in the 2018 State of California Sea Level Rise Guidance Document for projects where medium high-risk aversion is required, and assuming a high emission scenario.

Looking beyond mid-century, anticipated flooding could potentially impact the usability of the public access areas.

The Applicant submitted a memorandum outlining potential adaptation responses that could be implemented in the future.

One option is to raise the grade of the site again to an elevation that would be resilient to flooding and storm events up to the end of the century.

Depending on the berm design, this option may require sacrificing some portions of the surface parking currently at the site. When we get to the staff recommendation, you will hear about our recommendation to reserve this area for future adaptation should it be required.

BCDC's Vulnerability Mapping Tool shows the project area as having low-social vulnerability based upon the 2020 Census data and thus not within an identified vulnerable or disadvantaged community.

Within a one to two mile radius of the project and on the other side of the highway, the 101 Bayshore Freeway, the Community Vulnerability Mapping Tool shows communities southeast of the project site that do have high or highest social vulnerability.

In terms of community outreach on the project, the proposed project included public outreach and engagement typical of the city of Burlingame's local entitlement process.

In advance of the public hearing before the Commission's own Design Review Board, Commission staff recommended the Applicant engage a number of community-based organizations that work within underrepresented and/or identified vulnerable or disadvantaged communities in the area.

The Applicant did advertise and request feedback from these organizations, though no responses were received.

The Application Summary outlines the Bay Plan Policy areas relevant to the project and discusses the proposed public access improvements.

To provide you with additional background on the project I will now introduce Dawn Jedkins of DES Architects.

Ms. Jedkins addressed the Commission: Thank you, Shruti. Good afternoon, Commissioners. Thank you for taking the time to consider our project today. My name is Dawn Jenkins and I am with DES and I am joined by Chris Mateo, also of the DES; we are the design architects for the project and also the design landscape architects for the project.

Our office did take the project through entitlements with the city of Burlingame as well as working with BCDC's Design Review and listening to their thoughts and comments and then incorporating some of those ideas into the plan.

So Shruti did a great job of providing an overview of the project so I will try not to kind of repeat too much of that but I did want to share a couple of slides and just focus on a few additional items.

I like this graphic because it does a really good job of showing the vision for the project. You can see the two existing buildings, which are the shorter buildings on the left and on the right, and then in the center is the proposed new building with the parking structure in the back.

And we use the black and white outline to show you what the existing conditions look like at the site. We do have very good shoreline access along the entire perimeter of the project site already but we realized that it was it was lacking, lacking a lot of amenities. It is very basic. It does not really promote a lot of multimodal or recreational activities. And then also it was designed several years ago and implemented several years ago so we looked at bringing it up to current ADA and BCDC standards.

So we had our primary goals for the project and improving the shoreline. We are thinking about improving the Bay Trail access which includes ADA. It includes the project's connections to the public way, which is Airport Boulevard in this case, and also increasing use, so multimodal use as well as recreational use.

We also looked at resiliency to sea level rise and what we could accomplish for mid-century resiliency and then also adding other amenities.

So if we look at this slide here, we have got a series of bullets that I will go through. But one thing to point out, if you look at the top right hand corner of the page where we have the number 10, we are not directly connected to Airport Boulevard at this location.

We do have another site, it is a very short, a short stretch, but it is another site that connects us to Airport Boulevard in that location.

And then if you look at the Number 1, this is the location where our project site does, in fact, connect all the way out to Airport. So we were able to implement some changes in that location and improve access.

So if we start there at Number 1, this path was very narrow. You can see as the parking lot curves around it pinches the space between the property line and the parking and we had a very narrow, less than four-foot, pathway access through there.

So we were able to modify the edge of the parking there to create an eight-foot wide pathway. So from Airport Boulevard down to where you see Number 2, which is a yellow highlighted line, which is our Bay Trail proper. We have an eight-foot-wide access path through there that is now ADA compliant. And then if we move from left to right you can see the yellow path is our Bay Trail. Previously 10-foot wide a combination of AC paving and concrete paving.

We did have some uprisings, upheaving of the concrete and the AC from tree roots and some other conditions going on so we will improve. All of that pathway now will be 16-foot wide so it will be the AC path with the DG shoulders and it will continue through the length of the project.

If we go to Number 3 we have a series of notes along that are highlighted in blue, Number 2, Number 5, Number 9, and Number 11. All of those are existing spaces but we looked at how we could improve the function of those spaces.

There were some very simple cast concrete benches typically throughout the site so we looked at adding nice benches with backs, picnic tables, in those particular locations.

And Number 3 is where we have added a fix-it station, which is a pedestal which has tools so that people can repair their bicycles. It also has the ability to hang your bike up on that same pedestal while you repair that. We added trash cans along the way as well.

When we get to Item Number 6; that is one location where we already had our public access parking spaces. As Shruti mentioned, there was no ADA-assessable parking spaces in those locations so we added them. And then we also added the pathways that connect up to the Bay Trail. So that is location Number 6 and also location Number 6 at the top right.

When we get to the triangle parklet, this was developed with the original development and this is all included in the public access area. But the circle in the center was only connected back to the building and not connected out to the Bay Trail so we added that connection in. We added some berming around the side of that oval so that you could have a lawn area with people sitting on the berm kind of looking out towards the Bay and then it would also provide some shelter to that circular area. So if there was another event going on in that circular area that you would have some separation of use.

And then if we move up to Number 9, which is on the right hand side along Sanchez Channel, that was a former lawn area which was really just ground cover and not really functional. So we added another picnic area there and it kind of opposes the development across the channel with some similar amenities going on so that speaks nicely to some consistency in the area.

If we go to the next slide, please; I just wanted to share. So these are pretty characteristic of the existing conditions so you can see the concrete benches bottom right and some of the upheaval that is occurring in the pavement and then the condition of the Trail as you see shots 1 and 2. And also this is a good slide to highlight.

There is very little planting left out there, I would say. There's a lot of trees but I do not know if I would call it turf, it is probably more crabgrass at this point. But we will be taking a look at all of the planting along the Trail as well and bringing that up to a nice standard with shrubs and ground cover and some additional trees. Unfortunately, in order to widen the Trail we did lose some trees but we will be supplementing that with new plantings.

And then lastly, I wanted to also mention that the Trail itself is not currently illuminated. So in order to extend the hours of use and encourage safer use in the evening hours, maybe in the winter time, we will be adding lighting along the full length of the Trail section in front of the project.

So some of the images that Shruti shared. But you can see that we have taken out those concrete benches, not particularly comfortable to sit on, and added some seating opportunities with benches with backs with a wood surface that will be more comfortable, and then also the picnic tables and the trash cans so we can have some other activities along the Trail. And then you can see the Trail itself. The concrete nodes do bisect the AC paving but then the Trail continues with AC and the DG shoulders.

And a similar concept but this is along the Sanchez Channel side and you can see the new node on the left hand side, formerly just a lawn area, where we have added some additional picnic tables and seating.

The next slide is speaking to the elevation of the Trail. The dashed line that is just below the finish line of improvements that you see is the existing grade of the Trail.

So we look to increasing the height to mitigate midcentury sea level rise assumptions. And then going forward obviously, if further mitigation is required our adaptation strategy would be able to occur within the current width of that shoreline area that we have between the parking and the shoreline. That would be something that we would study going forward at the time where it was needed.

And then just a few pictures on the next slide of the plant palette and the tree palette and then some of the furniture and the drinking fountain, sorry, I forgot to mention the drinking fountain. We will be adding a drinking fountain that has a bottle filler as well as the doggy drinking bowl as well.

And if you have any questions, any detailed questions about the plant material, Chris Mateo is here to speak to that.

That concludes, that concludes my presentation. I think between us we have covered everything. We do have a few more slides. If you have any more detailed questions I am happy to answer any that you have.

Acting Chair Randolph acknowledged: Thank you very much.

Ms. Jenkins replied: Thank you.

Acting Chair Randolph continued: We will open the Public Comment Period now, our Public Hearing. Any member of the public who would like to make a comment, we invite you to raise your hand on Zoom. Remember, you have three minutes to speak.

Ms. Atwell noted: Acting Chair, I do not see any hands raised so no public comment on this item.

Acting Chair Randolph continued: Okay, so if there is no public comment I would invite a motion and a second to close the Public Hearing. Just please raise your hands on Zoom.

MOTION: Commissioner Showalter moved to close the Public Hearing, seconded by Commissioner Moulton-Peters. The motion carried by a voice vote with no abstentions or objections.

Acting Chair Randolph moved on: Thank you very much. So the Public Hearing is closed. We will invite now Commission questions and discussion.

Commissioner Butt chimed in: What exactly was it that required a BCDC permit? Was it the proposed new building or just modifications to the improvements in the 100-foot shoreline band?

Ms. Sinha answered: The building of the two new structures, the new Life Science Building and the parking garage. And they are making modifications to the surface parking, which is partially within the shoreline band, and so that is what triggered our jurisdiction.

Commissioner Butt stated: Okay, I know this is beyond, probably is beyond the jurisdiction of BCDC, but I noticed that in looking at that section they showed of the Bay Trail, the Bay Trail is up on a berm or a levee, probably a levee is a better description, and the parking lot on the inland side of it is essentially at high water and I assume the building is about there too. So I am just curious why there was not some requirement to raise that new building up out of the 100-year flood zone. Maybe it is and I could not tell because there was not a section.

(Off the record for a fire drill from 1:44 to 1:47 p.m.)

Ms. Atwell resumed: I want to ask the Permittee, did you hear Commissioner Butt's question or would you like him to restate it?

Ms. Jedkins: I heard the question. I think I understand what he was getting at.

Commissioner Butt added: I was referring to Slide Number 7, if you want to pull that up.

Ms. Jenkins responded: Yes, the section, right, where you see that the Bay Trail is higher and then the site is lower.

Commissioner Butt noted: The parking lot on the inland side is just about the same elevation as mean high water and that's a new parking lot.

Ms. Jenkins continued: So the elevation of the existing site and the existing buildings is obviously below. It is an older development. It is below the current standards for finished floor elevation, for instance, for the building. And so the site does rely on this levee, obviously, for sea level rise protection. And so we are actually not changing a good deal of the grade along the frontage here. If you actually go back maybe to one of the slides where we can see the Site Plan.

Because of the different access points, both the buildings have existing service, existing access points and those driveways that circulate around those buildings and then come along and run parallel to the shoreline band along Burlingame Lagoon, we were not able to change the elevation of those driveways, there's utilities, there's various things going on. And so the finished floor of the new building is at 12, which is one foot above the FEMA flood elevation. And we were able to connect to the other buildings with that type of finished floor grade change but we were not able to affect a good deal of the site because of the existing building conditions. So therefore raising the levee, the perimeter grade of the site is in fact protecting the project development.

Commissioner Butt stated: I think you answered my question. The new building floor level is in fact at 12.

Ms. Jenkins agreed: Yes.

Commissioner Butt acknowledged: Okay, thanks.

Ms. Jenkins reiterated: That is correct.

Commissioner Butt stated: That answers my question. Okay, thanks.

Ms. Jenkins acknowledged: Okay. Thank you.

Commissioner Showalter commented: Yes. This might really not be pertinent at this location but this is the first time I have heard us talk about adding lighting to the Bay Trail, which is an interesting idea, especially here where it might be used for commuting purposes.

But I wondered if anything was taken into account about directing the lighting so it is down. There's airports right there so there's bound to be a lot of light pollution, but is the impact of on wildlife being taken into account?

Mr. Lavine fielded this question: Thank you, Commissioner Showalter. We are trying to add light in smart ways along the Bay Trail as we upgrade projects along the shoreline.

The lighting which is required in the permit is also going to be reviewed through our staff's plan review process so our landscape engineer is going to be looking at it with some of those questions in mind, trying to have low lying light that does not cast a lot of light and particularly keeps it directed towards the Trail and away from the Bay to minimize its impacts.

And where there is potential for conflicts we look at that very carefully. So we are trying to balance the ecological and recreational needs through that lighting.

Commissioner Showalter mentioned the Audubon Society: Thank you, I am glad to hear that. We are hearing a lot from the Audubon Society at Mountain View City Council meetings about the importance of lighting plans and so I just wanted to bring that up, thank you.

Commissioner Gioia was recognized: Yes, I just wanted to provide perspective about the light. I actually live on the Bay Trail in Richmond and it is a well-traveled both bike and walk and other use trail and there have been lights on there since the beginning. So it is not uncommon to have lights on the Bay Trail, especially through residential areas.

In fact the city of Richmond changed out, the original lights were very glaring in your face as you walked or biked along the Trail and after the first few years they switched them out to lights that are lower and are more toward the ground and do not flash in your face.

I agree, lighting plans are really important. And lighting, especially these trails, especially as it gets dark early, are major, roadways for bikes and walkers through residential communities. So yes, thoughtful lighting plans, just wanted to add that.

Commissioner Pemberton commented: Thank you. I just wanted to say that I think I will be abstaining from this Item on behalf of the State Lands Commission. It looks like a great project from a public access standpoint and that is a core part of the Commission's mandate. But part of the project is under lease with the State Lands Commission and I am not sure if this proposed project would require an amendment to our existing lease. So I am just going to abstain while I await clarification on whether that lease amendment would be necessary.

Ms. Atwell stated: And I do not see any more hands raised, Acting Chair Randolph.

Acting Chair Randolph acknowledged: Thanks, Peggy. So if there's no more Commissioner questions or comments, Shruti, can you present the Staff Recommendation?

Ms. Sinha read the following into the record: On October 14 you were mailed a copy of the Staff Report recommending the Commission authorize the proposed project as conditioned. These conditions will require the Applicant to implement a variety of measures in carrying out the project, including to install and permanently guarantee an additional 5,933 square feet of public access area, bringing the total required public access area to 3.07 acres.

Next, to install the public access improvements mentioned earlier including widening the Bay Trail from 10 to 16 feet in width and ensure maintenance of required public access over the life of the project.

And to monitor the site for flooding and in the future implement a Sea Level Rise Adaptation Plan to ensure ongoing viability of the public access.

And to reserve a Potential Future Public Access Adaptation Zone within a portion of the existing parking lot and limit future development within this area to only activities that would not prevent its reuse for adaptation or upland migration of public access should it be needed for that purpose in the future.

And finally, another measure on preparing for future adaptation on a regional scale that my colleague, Todd Hallenbeck will discuss more. I am going to pass the presentation off to Todd now. After Todd's brief report we recommend that you vote to adopt the Staff Recommendation as conditioned. The staff believes that the project is consistent with your laws and Bay Plan policies regarding public access.

GIS Specialist Hallenbeck addressed the Commission: Thanks, Shruti. Good afternoon, Commissioners. My name is Todd Hallenbeck and I serve as the GIS Specialist for BCDC; and I am here to highlight one of the more unique special conditions that is included in the Staff Recommendation you have before you.

This permit represents the pilot implementation of a data collection effort I briefed you on back in May called the Shoreline Adaptation Project Map.

By mapping and tracking climate adaptation, shoreline protection and habitat restoration projects in a regional database we intend to inform coordinated regional adaptation planning and provide data to support our own regulatory decision-making.

And so this permit, the permit Special Condition II.D. included in the Staff Recommendation requires that the Permittee enter project details into a regional database, currently EcoAtlas Project Tracker, within 90 days of plan review approval.

These project details include things like the project description, spatial footprint, design life, sea level rise and storm event design conditions, the adaptation activities taking place and the elevation of those activities, among others.

Additionally, the Permittee will be required to upload flood monitoring reports and adaptation plans to this database as well.

We have developed data entry guidance and are going to be available to help the Permittee successfully access the database to enter these details and we think in terms of time and effort that this information can be entered in probably less than half an hour.

We intend to refine this guidance and also the permit condition language through additional major permits coming to you this fall. And also explore opportunities to have project data be entered prior to this permit issuance stage such as the pre-application review by the DRB or even through aspects of the Bay Adapt Regional Shoreline Adaptation Plan implementation process.

I am excited that we have taken this step. Appreciate the hard work of our staff and eager to learn how this works through this project and others coming to us later this year. Thanks.

Acting Chair Randolph acknowledged: Thanks, Shruti and thanks, Todd.

We need to hear from the Applicant's representative. I would like to ask you whether you have reviewed the Staff Recommendation and agree?

Ms. Jenkins stated: Yes, we do.

Acting Chair Randolph acknowledged: Good.

Ms. Jenkins replied: Thank you very much.

Acting Chair Randolph continued: Thank you very much. I didn't want to miss that.

So a motion and a second I'd welcome then on the Staff Recommendation.

Commissioner Kishimoto chimed in: Could I just make a comment or ask a quick question before?

Acting Chair Randolph stated: Sure.

Commissioner Kishimoto commented: It has to do with Commissioner Butt's question about the jurisdiction as well. So we are voting strictly on that 100-foot strip; is that right? So we are not passing judgment on the overall project?

Mr. Lavine answered: Yes, that is correct. You are voting on the work that is within BCDC's jurisdiction. But in doing so we are considering the overall project and its impacts on the shoreline and the role that public access plays in the shoreline.

Commissioner Kishimoto continued: Yes, okay. I think it is a very exciting to see one of the earliest projects under this Bay Adapt process and the public access projects looks good. Just looking at the overall project of 366,000 square feet of parking garage, a huge parking garage, which is so close to the Burlingame train station, and with great bike access I have to register my concerns about that.

So, if we think that BCDC is one of the commenters on thinking holistically and cumulatively on how, what kind of projects we want to see in the Bay Area. As I said, the amount of car parking and traffic to the site does not make me happy, but if we are voting largely on the public access aspect of it I definitely would express support for that aspect of it. So, that is, I do not know if you, but. So I suppose the only question there is really what is our role in looking at aspects which are not public access?

Mr. Lavine explained: Thanks, Commissioner. The Commission within the shoreline band jurisdiction, we do have very limited use to comment upon appropriate uses. Within the Bay Plan itself we do have certain priority uses established to ensure that there is space along the shoreline for particular types of development that demand a space on the shoreline such as industrial, port or public recreational areas. But most other uses we have to consider in really whatever is consistent with the local ordinances zoning. We have to consider through our law and mostly focus on the public access and resiliency issues in those spaces.

Commissioner Kishimoto acknowledged: Okay, yes. Thank you for clarifying.

Commissioner Wagenknecht chimed in: Noting Commissioner Kishimoto's issues I would move the Staff Recommendation.

Acting Chair Randolph acknowledged: Thank you very much. Do we have a second?

MOTION: Commissioner Wagenknecht moved approval of the staff recommendation, seconded by Commissioner Gorin.

VOTE: The motion carried with a vote of 20-0-1 with Commissioners Addiego, Ahn, Burt, Eckerle, Eklund, Gioia, Gorin, Hasz, Moulton-Peters, Peskin, Pine, Ranchod, Showalter, Wagenknecht, Gilmore, Ambuehl, Bellin, Kishimoto, Vasquez and Acting Chair Randolph voting, "YES", no "NO" votes, and Commissioner Pemberton voting "ABSTAIN".

Acting Chair Randolph announced: The motion passes, thank you very much.

Executive Director Goldzband added: If I can interject just for a second. I want to thank our staff and the staff of the Applicant for working so closely together, especially during the last six weeks or so when it became clear that time was of the essence.

We recognize that things happen that one doesn't necessarily forecast or expect and this was that kind of instance. We thank your patience with us and I want to congratulate our staff for working closely and I think very quickly with the Applicant, so thank you.

Ms. Jenkins chimed in: That is what I wanted to say, also. Yeah, it has been an incredible process and staff has been incredibly responsive and helpful getting us to this point, so yes. I wanted to say a special thanks also to Shruti in particular, I think she has working very hard. So thank you very much and thank you for your support today.

Acting Chair Randolph acknowledged: Thank you.

9. Consideration of Resolutions to Receive Grant Funds for Bay Adapt from the Ocean Protection Council and State Coastal Conservancy and a Briefing on Bay Adapt. So we will move ahead now to Item 9 on the Agenda, which is a Consideration of Resolutions for Grant Funds for Bay Adapt from the Ocean Protection Council and the State Coastal Conservancy and we will have a briefing on Bay Adapt.

Jessica Fain our Planning Director is going to give a presentation and then recommend that the Commission consider adopting these two resolutions to receive grant funds for Bay Adapt from the Ocean Protection Council and the Coastal Conservancy respectively. So over to you, Jessica.

Planning Director Fain addressed the Commission: Thank you, Acting Chair Randolph. Good afternoon, Commissioners. I am Jessica Fain, Planning Director here at BCDC.

As we have all discussed here extensively when it comes to rising sea level, it is not a question of if but when; and we cannot afford to wait to have a perfect answer. We really need to act now. That is why I am so excited for our next Agenda Item, a briefing and hopefully your approval of grant funding for over \$5 million to help implement the Bay Adapt Joint Platform.

Over the last few years Bay Adapt has helped galvanize and organize the Bay Area into action. But in order to make this more than just a list of good ideas we require resources. So I personally would like to thank the State Coastal Conservancy and the Ocean Protection Council for working with us to direct state resources to this incredibly important effort. I assure you it will be dollars well spent and we are seeking your approval today to receive those funds.

As we embark upon implementation of Bay Adapt we intend to do so in the same collaborative, consensus-driven way in which we developed it. And that starts with working with you, our Commission, and working hand in hand with local governments around the Bay with a strong focus on equity. And so I will turn it over to Dana Brechwald who is going to actually talk you through the details of this. Thank you.

Adapting to Rising Tides Program Manager Brechwald presented the following: Thank you, Jessica. I am Dana Brechwald, the Adapting to Rising Tides Program Manager. As Jessica mentioned, today I am going to bring you our exciting update on the two grants that we have received and ask you to vote on resolutions to accept them.

Here is an outline for our presentation today. First I will give you a briefing on the launch of the Bay Adapt implementation phase. We will have time for questions and discussion and then my Staff Recommendation for the resolutions.

So it is been almost a year to the day that you voted to adopt the Bay Adapt Joint Platform.

You will recall that the Joint Platform is made up of nine actions and 21 tasks that do not lay out specific shoreline projects but identify ways to overcome major regional barriers for adaptation to ensure faster, more equitable outcomes.

Since the Joint Platform was adopted, staff at BCDC has been laying the foundation for many of these tasks. I presented to you an overview of many of these initiatives in June. This includes things like developing our financing and investment framework in partnership with MTC/ABAG, which was discussed at the Financing the Future meeting this morning, as well as building out our Shoreline Adaptation Project Map which Todd just briefed you on a little bit. It is a powerful new data set that maps out hundreds of existing and planned shoreline projects.

So we are now ready to officially launch into the next public initiatives of Bay Adapt, which we are calling Implementation Phase.

If you will recall from my presentation in June, BCDC has identified four key areas we think were best suited to lead in implementation and this is what we have received funding to support over the next three years. I will give you an overview of the four now, and then go into detail on each of these items a little later in the presentation.

So first building on our equity principles we will start by focusing on frontline communities, particularly disadvantaged and low-income communities of color. And we will be working with the Conservancy to target grants to increase community capacity, education and adaptation planning.

Second, we will be leading on the development of a Regional Shoreline Adaptation Plan.

Third, we will focus on regulatory improvements to ensure that BCDC is ready to face a changing 21st Century Bay shoreline and its needs.

And finally, BCDC is committed to continuing to serve as the backbone agency for Bay Adapt, meaning; we will keep the conversation going. We will continue convening, coordinating, and we will be tracking and reporting out on our region's successes and progress.

So first, thanks to our state partners BCDC's capacity will be growing significantly over the next three years. In June the Ocean Protection Council approved over \$2 million to support the Regional Shoreline Adaptation Plan and also support a small funding gap for BCDC's Sediment EPA Grant.

In September the Coastal Conservancy approved over \$3 million to support all four implementation initiatives.

And this will be going for six new hires as well as a number of consultant contracts for support for technical mapping, planning and engagement to support the Regional Shoreline Adaptation Plan, communications and facilitation for the backbone tasks and additional funding to support the ongoing engagement of our EJ advisors and all Bay Adapt initiatives.

And just as an update, as you heard this morning, we have hired for two of these positions so far including Phoenix Armenta who is moving up in the world as the EJ Program Manager.

So later in this Agenda Item you will be asked to vote on two resolutions accepting these grant funds and I just want to clarify now exactly what you will be voting on.

Resolution 2022-03 accepts the OPC grant. This grant includes \$2,084,427 For the Regional Shoreline Adaptation Plan, as well as \$95,406 to help support the Beneficial Reuse of Sediment Grant from EPA for a total of \$2,179,843.

Resolution 2022-04 accepts the Coastal Conservancy Grant. This grant includes \$3,011,000 for the Joint Platform implementation. However, if you have eagle eyes and read the attachments in my Staff Report you will notice that the total amount that the Conservancy approved in September is actually \$3,570,000. That also includes a total of \$559,000 to cover additional years of support for our BRRIT involvement, but that total is handled in a separate agreement. So the grant agreement you are voting on today is to accept the \$3,011,000 for Bay Adapt implementation only.

So underlying everything we do in our implementation phase is equity. What does this mean for Bay Adapt implementation? There are four components here. The first is diverse and equitable representation in all of our leadership bodies, robust stakeholder and community engagement, helping to direct funding to frontline communities and having equity strategies front and center for all of the work plans.

So now I am going to get into more detail about what we will be doing with the grant funding over the next three years.

First, it is critical to direct funding to frontline communities to increase capacity to participate in adaptation planning. And the role we are aiming for here is to serve as a connector or bridge between the EJ community and funders like the Conservancy.

That is why our first task is to provide initial funding to critical communities we have identified through past initiatives like Bay Adapt, ART Bay Area, our CBO database and through our EJ advisors.

It can be used to support community-led programs like West Oakland Environmental Indicator Project's Shoreline Leadership Academy, which you can see in the photo here, which helps to prepare community members to actively participate in the development of local adaptation plans and projects.

And it is also important that we continue to capture lessons learned through community-led planning so we can incorporate these lessons back into regional planning processes like the Regional Shoreline Adaptation Plan.

So a major focus of the initiatives in the next three years will be this Regional Shoreline Adaptation Plan. So what is this? Through our conversations with the Ocean Protection Council and the Conservancy it became clear that a regional plan with aligning local plans is a high priority for the state to help create statewide consistency and to direct state resources.

The first component of this is by the end of 2023 we plan on leading a regional process to develop guidelines for sub-regional adaptation plans that are rooted in a region-wide vision for a resilient Bay shoreline. This will help us meet common goals and ensure that plans are considering impacts to their neighbors and the region.

And during this time we will also be identifying incentives to link to the guidelines. For example, the recently approved state budget funded SB 1, which was passed in 2021, which provides \$105 million for local and regional sea level rise adaptation plans and technical support. We hope that this funding will provide substantial funding for these sub-regional adaptation plans.

Second, using the guidelines and incentives that we are developing through 2023 we will aim to assist in the completion of sub-regional plans throughout the Bay Area with a goal of completing these plans by 2026. BCDC's role will be to provide technical support.

You might be wondering at this point, what do we mean by sub-regional plans? And the answer is we do not quite know yet but that is one of the first questions we will be asking. We know that it is smaller than the entire Bay and may look like a county, an OLU or something else.

And the last component of the Shoreline Adaptation Plan is continuing to build on our shoreline project tracking in EcoAtlas that you have heard about already.

A big guiding principle for us as we advance this work will be focusing on how this plan provides the most benefits to jurisdictions and the region with minimal additional burdens to the communities that are already hard at work.

For example, it will be critical to align this project with existing planning tools like general plan requirements and local hazard mitigation plans to ensure seamless planning.

As a regional entity, we think one of the biggest value-adds for a Regional Shoreline Adaptation Plan is the one-Bay approach. As such, the guidelines will include critical topics such as approaches to addressing and analyzing cross-jurisdictional impacts for different project types and scales, evaluating regional and local tradeoffs, and will focus on multiple topic areas like new and redevelopment, habitat, transit, critical infrastructure, contaminated sites, and EJ communities.

We will also consider which key components are critical to include such as setting minimum standards and criteria for things like engagement, outreach and equity; and establishing priority planning in project areas.

And later in this presentation we will invite you to consider what you and your constituents would like to see as key topics and key components of the guidelines.

Over the next year we will be conducting extensive outreach to ensure that the development of the guidelines includes a wide array of perspectives and voices.

We will come back to you at the end of 2023 to ask you to adopt these guidelines. We will also be working over the next few years on milestones for the online mapping tool. And then throughout 2024 and 2025 we will be working on our technical assistance to apply the guidelines and develop the plans.

Our third major initiative is to turn our attention towards ourselves and develop an approach to refine both our regulatory approvals processes and assess our policies and tools to respond to a changing shoreline. There are several components to this.

First, we propose to do a thorough assessment of existing permitting improvements studies. There are many that have been done but most have been narrow in scope so we would like to get a complete look at where they stand.

We also envision developing a permitting guidance document for permit applicants to help streamline that process.

We will do an internal assessment of BCDC's regulatory and policy tools and how they might be better applied to promote adaptation projects and identify any potential changes that BCDC should consider. This will be done in coordination with Bay Plan improvements you have already identified such as our sediment management policies. And this will also be a task that we will work closely with you on as we do it to ensure we are capturing your long-term vision for BCDC.

We are also very interested in exploring models for multiagency permitting coordination. The BRRIT has been a great model that BCDC staff have participated in, but it only covers certain project types and we will need to handle a wider variety of project types to stay ahead of sea level rise.

And lastly, we are proposing new staff to help support upcoming complex adaptation projects and assess and amend these tools that we have been discussing.

So the major milestones for this task will be phasing the studies and guidance over the three years of the grant. And the BCDC internal assessment will coincide and work closely with the development of the Shoreline Adaptation Plan guidelines.

We think it is important during this time for BCDC to evaluate how it may better utilize existing policies and regulations to encourage, incentivize or enforce the development of these adaptation plans, but also be open to how the guidelines might point to critical and timely Bay Plan updates.

So lastly, BCDC will continue to lead by serving as the backbone agency for Bay Adapt. This includes updating the Bay Adapt leadership structure by launching new and expanded leadership groups, which I will talk to you about in a minute, facilitating working groups as needed and hosting annual forums to bring together a wide variety of stakeholders and viewpoints.

We will be developing a more robust equity strategy to ensure that it is built into every process and outcome.

We will be tracking progress via metrics.

And maintaining strong communications, branding and continued public education so that Bay Adapt can continue to serve as the umbrella for adaptation in the region.

The first major milestone we will be launching on this task is new leadership groups that we are launching this fall. Throughout all of this we are going to also lead with the same collaborative, inclusive approach as we have throughout all of Bay Adapt.

So this brings me to what these engagement opportunities will be. There will be many opportunities for engagement at many levels, some of which you have heard about before, some which may be new to you today.

First, we will be coming to you with regular updates as we have in the past. This will be complemented with the relaunch of the Rising Sea Level Commissioner Working Group, which will work more deeply on these topics and report back to you regularly as well.

We will also be launching a new leadership group for the larger Bay Adapt Initiative.

As well as a leadership group and technical advisory group for the Shoreline Adaptation Plan. I will go into these in more detail in the next slide.

And we will also be conducting extensive outreach to develop the guidelines as well as statewide coordination to ensure that this work helps to set precedents statewide.

This slide illustrates the leadership groups and how they will relate to one another. What I am showing you here first is the elected level leadership. You as the Commission will share ideas about Bay Adapt and the Shoreline Adaptation Plan with the Rising Sea Level Working Group.

We will also be launching an elected level Shoreline Adaptation Plan Task Force. This was specified in our OPC Grant as a critical group to ensure that the interests and needs of local jurisdictions are represented in the guidelines and will create buy-in for use of the guidelines.

And if you are a county representative, Chair Wasserman will be reaching out to you to discuss who should serve on this task force.

In the middle here, we will also be relaunching a Bay Adapt leadership group. You will recall our Leadership Advisory Group for the development of the Joint Platform. This will bring together executive director level leaders to share ideas and accountability for the implementation of the Joint Platform and will be comprised of entities that are involved in some aspect of implementation as well as representatives from entities that have interest in the outcomes. And this group will be launching before the end of the year and will also be providing regular updates to the Rising Sea Level Working Group.

And lastly, we are creating a Shoreline Adaptation Plan Technical Advisory Group. These are our subject matter experts that can ensure we have the right expertise in the room for each of the topics that we discussed earlier. And they should come from agencies, nonprofits, academia and science organizations. This group will report out to both the Implementation Committee as well as the Task Force.

Okay, now is the time that I get to turn the questions to you. I would like to open it up for questions from you as well as share some discussion questions here.

The first one is; what will your local government officials want to see in the guidance that will assist them in developing rising sea level adaptation plans?

And then, what are the best ways to involve our local government representatives on the Commission in this sort of effort?

So I will turn it back to Acting Chair Randolph at this time to facilitate discussion; and I believe Commissioner Eckerle has some prepared words as well.

Acting Chair Randolph acknowledged: Thanks very much. Great. So we will entertain Commission comments and questions and we will start with Commissioner Eckerle.

Commissioner Eckerle commented: Thank you so much. Dana, that was an incredible presentation. Again, just really appreciate that partnership with you and Jessica and this Commission.

It is exciting to see this work coming together. I was going to see if we could have Ella McDougall join us since she has been leading our work on this effort. Are we able to bring her in to give comments? If not, I can give them on her behalf.

Ms. McDougall chimed in: Hi. Thanks, everyone. Thanks, Jenn. Agreed, Dana, this was a fantastic presentation and really outlines the project so perfectly.

We are really thrilled to support this effort to increase resiliency on the impacts of climate change through this project funding. And we know our staff has worked so closely with BCDC staff who has worked tirelessly to lay the foundation for the Bay Joint Platform. So we are really excited to get regional collaboration and buy-in and we are just ready to jump into this ambitious effort and implementation.

We are really excited to jump straight into shoreline planning for the entire Bay Region. This is something that we have been talking about for almost a year now. The Bay Area has the assessments and the modeling to do this. We just needed to put pens to paper and plan it out and that is exactly our intention with the Regional Shoreline Adaptation Plan.

And we also are really excited to be empowering Bay Region cities and counties to write their own plans for shoreline adaptation based on a set of criteria and minimum standards.

This is a structured template that will be a first of its kind to ensure our plans are consistent and standardized across regions and impacts.

We really do not have any more time to be debating planning horizons or vulnerability assessment standards anymore. We just want to get these plans streamlined to avoid any more confusion in the adaptation planning space. So we are really excited about that.

And then finally, jurisdictions that take the next step to actually utilize these criteria, as Dana mentioned, are going to be prioritized for planning and implementation funding. We really look forward to using this as a mechanism to reward and support those local governments who take initial steps to address coastal impacts.

So thanks for this presentation and we are really excited to jump into this.

Commissioner Eckerle acknowledged: Thanks, Ella. And Acting Chair Randolph, if you do not mind, I just have just a few more things.

Acting Chair Randolph replied: Please do.

Commissioner Eckerle continued: Thank you. Just to put a little more detail around the SB 1 funding. Of the \$101.5 million that we received to help implement that bill, that legislation, we have \$37.5 million right now.

And so what is happening at OPC in two weeks with the Sea Level Rise Leadership Team is a full discussion about the criteria for how to build that grant program, how we are going to prioritize getting this money into the communities that need it most, that are most vulnerable and most under resourced. So we look forward to working with BCDC staff and leadership who are on that group with us to develop that so we can start getting this money into the hands of the communities that need it. Thank you.

Acting Chair Randolph acknowledged: Thanks very much. Are there other Commission comments or questions?

Commissioner Gorin commented: Thank you so much, this is an amazing opportunity; and thank you so much for everybody working on the grant application and really complex ways of integrating and implementing the money.

I do not know how you are going to start. We have a very diverse Bay, cities and counties. Some like Sonoma County and Solano County have less development than others.

But we have a critical project facing us with the Highway 37 Project moving forward and I do not know whether we have the ability to add expertise to especially the interim project that is being considered with I think not enough opportunities for inflow to restore and build the wetlands behind the race berms.

So I know that BCDC has been in communication with the policy team but it would be great to get the best science available to help develop an interim project.

The ultimate project is no problem. It is going to be a great project. Can we find the gazillion dollars to actually do it?

But I would like some best science behind the interim project. Do we have that capability? I know we have just received the grant. We are far away from implementing it. But is that the kind of project that this is intended to address?

Executive Director Goldzband fielded this inquiry: I will take a stab at that if that is possible, Acting Chair Randolph. I am going to ask you to hold off for just a few weeks because we are in the process, Commissioner Gorin, of scheduling. And I told this to Commissioner Eklund just a couple of days ago; a Highway 37 briefing for the full Commission in, and I am not looking at Steve because I cannot find him, but I am pretty sure it is December. Is it the second December or the first December?

Mr. Goldbeck answered: It is either the second November or the first December meeting.

Executive Director Goldzband acknowledged: Like I said, it is the second November or the first December.

Ms. Atwell noted: I believe it is the first December meeting.

Executive Director Goldzband repeated: The first December meeting.

Mr. Goldbeck added: We are still working with the partners to finalize.

Executive Director Goldzband continued: Right. It will be led by MTC and the like and we have spoken already with MTC senior leadership. So I am going to ask you to hold your questions about Highway 37 until we have that. It will be a full Commission briefing.

Commissioner Gorin continued: Thank you so much. I have asked the Bay Restoration Authority also to schedule a briefing on that. Many of us here serve on the Restoration Authority. This is like the first test of how we elevate major infrastructure projects and the science behind it so thank you so much.

Commissioner Bellin was recognized: I am all new to this so that was a lot of really important information. I am wondering, will we have access to the slideshow? Because that was a lot to take in.

Executive Director Goldzband stated: Yes, ma'am. Yes, ma'am. It will be posted by the end of the day.

Commissioner Bellin acknowledged: Okay, thanks.

Commissioner Showalter commented: I just wanted to say that this is a great presentation and I am so happy to see this broad progress. We all know how much we need it.

But I am also wondering if it is okay for us or what is the best way for us to request briefings where we can talk about the specific problems in our area? Because there are a lot of very specific questions about how we should go forward that relate to different areas of the Bay. How should we request that? Or I would like to request it.

Executive Director Goldzband chimed in: Well, I think you just did, Commissioner Showalter, to be honest with you. One of the things that will happen throughout Bay Adapt is the ability, and we want to thank OPC and the State Coastal Conservancy for this, to do increased outreach.

And so we will make sure that one of the things that we do is work through each of our county supervisors, as members of BCDC, as Commissioners, to help do just that in your counties. I know Jessica wants to go beyond that and I will go even beyond what Jessica says.

Ms. Fain spoke: One-up you, Larry. I will just add that for years now are Adapting to Rising Tides Program is designed to do exactly that, to support counties and cities around the region and help provide the best information. So it is really we have an open door policy.

Whenever anyone would like to just have a conversation about ideas or things that are going on in your location where you are looking for some extra support, we are here to support those kinds of things. So feel free to contact me or Dana and we are happy to just set up a conversation.

Commissioner Showalter replied: Thank you.

Executive Director Goldzband stated: And now I am going to take Dana up on her offer, if that is okay, Dana. You saw in the presentation the formation of a task force made up of local elected officials, leaders from the Bay Area to guide the development of the Regional Shoreline Adaptation Plan, the guidance et cetera.

So as we start on this process we are committed to working hand in hand with local governments and the task force will help guide the development of those regional guidelines. And we need your help in doing so.

As you know, when you join BCDC as a Commissioner it is not always easy. So we are going to ask you to do something to help us. Chair Wasserman is going to send each of the county supervisors on BCDC an email in the next couple of days and he is going to ask you to recommend two elected officials from your county who could serve on the task force based upon a set of criteria.

You are certainly welcome to nominate yourself, but we are really also looking for folks who might not necessarily be involved with us yet and who want to become involved.

The task force is expected to have four or so, five, two-hour meetings during the next year. They are likely to be virtual or hybrid so it will be pretty easy in that respect. We are looking for a mix of county and city representatives. We are looking for representatives from disadvantaged frontline communities, a diverse group of folks who are really passionate about climate change and their community. They will work with us as we all work to develop these guidelines.

So be on the lookout for an email from Chair Wasserman and then more than likely a follow-up phone call from yours truly to start that process.

Acting Chair Randolph continued: Thanks, Larry. Any other Commission comments or questions?

Is there anybody from the public who would like to comment on this? If so, please, raise your hand on Zoom.

Mr. David Lewis addressed the Commission: Thanks very much, Commissioners, David Lewis from Save the Bay. I really appreciate the staff presentation and the support from other state agencies for BCDC to move forward with this next phase.

We were deeply disappointed that Governor Newsom vetoed SB 867, which was Senator Laird's bill, that would have given a blessing and a mandate for BCDC to do some of this work with a goal towards these guidelines for local sea level rise planning actually being mandated on communities after a certain number of years.

The governor's veto message was really off point, as today's Commission meeting shows, because he briefly mentioned budget concerns. But it is clear there is already some money in the state budget that you are accessing to be able to get started and there is actually more money for communities that do develop plans or want to develop plans to get some support from the OPC and others to do that.

So notwithstanding that veto, it is really important that you move ahead with these different components, including developing guidelines for what constitutes an effective local sea level rise plan.

And also because you are not limited to the set of criteria and components that were in Senator Laird's bill, since it is not now law, we just want to encourage several key factors that should be an element in developing these guidelines.

One is to make note of the great work that has already been done, not just the Adapting to Rising Tides work that BCDC has done, but an excellent Adaptation Atlas that SFEI and SPUR developed several years ago which makes really strong suggestions for emphasizing nature-based adaptation in each of the sub-regions along the Bay shoreline to adapt to sea level rise.

Secondly, is to emphasize underserved communities that have suffered historic environmental injustice and that have fewer resources to do this kind of work. Your staff has already underscored how that will be a centerpiece.

And third, we think you should definitely incorporate paying attention to groundwater rise, because the rise in the water table is going to come along with sea level rise, especially near the shoreline and we know that there are issues related to historic legacy toxics and changes in hydrology from groundwater rise, not just sea level rise.

And finally, this should not be limited to just looking at the 100-foot shoreline band or asking communities to do that, because we know that the flooding that is going to affect communities first is not actually from sea level rise but from extreme storms and precipitation that are going to happen more frequently.

There is an opportunity to incorporate that upland component and pay attention to where water is coming from upstream, not just from sea level rise.

So we look forward to working with the Commission on this and appreciate your attention to the issues.

Ms. Carin High addressed the Commission: Thank you. Good afternoon, Acting Chair Randolph and Members of the Commission. I am speaking today on behalf of the Citizens Committee to Complete the Refuge and I would like to echo David's comments about the disappointment of the veto of SB 867.

It is obvious to us that governance gaps exist when it comes to dealing with the issue of sea level rise and its impacts to our communities and the natural environment.

And it is clear that there is a critical need for strong regional guidance that ensures as a whole that all shoreline communities develop responses to climate change in a manner that is equitable for all communities and that ensures resilience for all communities and is protective of the biodiversity and health of the Bay.

Thank you, Dana, for the wonderful presentation, it gives us some, it shines a little bit of light after the veto.

We would like to express our support of resolutions 2022-03 and 2022-04.

And something that was not really clearly included in the presentation. As BCDC considers its next steps, we urge BCDC to not just focus on electeds but to also center social equity, and the ecological health of the Bay and the development of the Shoreline Adaptation Plan, and to develop a process that engages feedback from partner resource and regulatory agencies in addition to community, environmental and environmental justice organizations, among other stakeholder groups.

We also continue to urge BCDC to focus attention on the serious need for accountability mechanisms, not just incentives, in our region to ensure that local jurisdictions are not sacrificing the future health of our communities and of the Bay through planning decisions that are being made now.

The actions we take now will determine the future of our Bay shoreline. A regional approach that includes incentives and accountability is needed now more than ever. Thank you for your leadership and we look forward to collaborating with you in this process.

And I will add in two other recent documents that David did not mention. SFEP's Estuary Blueprint and recently released Joint Ventures for Restoring the Estuary. Both are excellent documents that I hope will be incorporated into the development of the shoreline adaptation guidelines. Thank you.

Ms. Atwell chimed in: Thank you, Carin. Acting Chair, there are no more hands raised for public comment.

Acting Chair Randolph continued: Thanks very much, Peggy.

Dana, could you present then the Staff Resolution for these, the recommendation for the first resolution.

Ms. Brechwald read the following into the record: Staff recommends the approval of Resolution 2022-03 approving the application for and/or execution of funds from the Ocean Protection Council under the Environmental License Plate funds. As a reminder, this grant includes \$2,084,427 for the Regional Shoreline Adaptation Plan as well as \$95,406 for beneficial reuse of sediment for a total of \$2,179,843.

Acting Chair Randolph entertained a motion and a second: Thank you. So we would welcome now a motion and a second.

MOTION: Commissioner Gorin moved approval of Resolution 2022-03, seconded by Commissioner Moulton-Peters.

VOTE: The motion carried with a vote of 21-0-1 with Commissioners Addiego, Ahn, Burt, Eckerle, Eklund, Gioia, Gorin, Hasz, Moulton-Peters, Peskin, Pine, Ranchod, Showalter, Wagenknecht, Gilmore, Ambuehl, Bellin, Kishimoto, Pemberton, Vasquez and Acting Chair Randolph voting, "YES", no "NO" votes, and Commissioner Beach voting "ABSTAIN".

Acting Chair Randolph announced: Terrific, the motion carries; thanks, Peggy. Dana, if you could give the Staff Recommendation on the second motion.

Ms. Brechwald read the second resolution into the record: Yes. Staff recommends the adoption of Resolution 2022-04 approving the grant of funds from the State Coastal Conservancy for Bay Adapt Joint Platform implementation. As a reminder, this is a grant for \$3,011,000.

Acting Chair Randolph asked for a motion and a second: Thanks very much. Would welcome a motion and a second on the second resolution.

MOTION: Commissioner Gorin moved approval of Resolution 2022-03, seconded by Commissioner Pine.

VOTE: The motion carried with a vote of 21-0-1 with Commissioners Addiego, Ahn, Burt, Eckerle, Eklund, Gioia, Gorin, Hasz, Moulton-Peters, Peskin, Pine, Ranchod, Showalter, Wagenknecht, Gilmore, Ambuehl, Bellin, Kishimoto, Pemberton, Vasquez and Acting Chair Randolph voting, "YES", no "NO" votes, and Commissioner Beach voting "ABSTAIN".

Acting Chair Randolph announced: The motion carries, thank you very much, this is terrific.

Ms. Brechwald added: Thank you so much, Commissioners.

10. Fiscal Year 2022-2023 Budget Update. Acting Chair Randolph stated: So the last Item on the Agenda is a briefing on the Commission's 2022-23 budget. Daisy Kaur, our Budget Officer, is going to provide the briefing.

Executive Director Goldzband chimed in: So before Daisy starts I do want to note a couple things. You get a budget briefing every year. Many of you are local elected officials. Many of you are state officials, so you understand how budgets work. And I just want to say that today I believe is Daisy's one year anniversary with BCDC and it has been an absolute pleasure for her to step in and do a terrific job. So with that, Daisy, it is all yours.

Budget Officer Kaur presented the following: Thank you, Larry. Good afternoon, Commissioners. My name is Daisy Kaur. I am BCDC's Budget Officer. Today I will provide an overview of Fiscal Year 2022-23 Budget.

So the purpose or objective for this presentation is to provide an overview of 2022-23 Budget, provide information regarding one-time expenditure authority in the Budget, and also to provide information regarding grants and contracts.

For Fiscal Year 2022-23 Budget and then in the next slides I will show the comparison.

So expenditure authority, what we have received from the state. For the General Fund we received \$7.9 million. For Bay Fill Clean Up and Abatement Fund we received \$.5 million. For Grants and Contracts expenditure authority is \$2.1 million. And for Greenhouse Gas Reduction Fund it is \$1.9 million. And total expenditure authority is \$12.4 million.

So this is regarding the General Fund. So in Fiscal Year 2021-22 BCDC received \$6.3 million for the Personnel Expenses. And in Fiscal Year 2022-23 we received \$6.3 million, so there is no change.

And then last year we received \$1.3 million for the Operating Expenses and this year we received \$1.6 million for the Operating Expenses.

And then our Total Expenditures last year were \$7.4 million and this year it is \$7.9 million. So in this year's operating expenses we received one-time expenditure authority for the web design and then we also received funding for the hybrid meetings.

So for the Greenhouse Gas Reduction Fund, in Fiscal Year 2021-22 BCDC received \$1.7 million for the Personnel Expenses and \$121K for the Operating Expenses. This Fiscal Year in 2022-23 we received \$1.7 million for the Personnel Expenses and \$142K for the Operating Expenses. And because of the rounding the total shows \$1.8 million for both. The majority of the Operating Expenses are actually one month's rent and there is a contract with SFEI.

So Bay Fill Clean-Up and Abatement Fund. So in the beginning of 2022-23 we started the year with \$831K. Last year in Fiscal Year 2021-22 the beginning balance was \$811K. We had Revenues of 164K; and there was like Expenditures and Expenditure Adjustments for \$41K. And then we ended the year with \$831K and that is the beginning balance for this year.

And this year we anticipate Revenues of \$200K. And our Expenditures and Expenditure Adjustments are \$400K this year because BCDC received expenditure authority of \$400K for two new Environmental Scientist compliance positions. And then we anticipate to end this Fiscal Year by \$631K.

So in this slide I will share the Enforcement Fines Collected. In Fiscal Year 2021-22 the actual fines we collected were \$164K. And then in this year for the first quarter we already collected like \$62K. And the total for Bay Fill, the enforcement fines we collected are \$905K.

So Grants and Contracts. In the previous presentation Dana already talked about a few of the grants from the Ocean Protection and Coastal Conservancy. So from the budget perspective, in Fiscal Year 2021-22 our total appropriation was like \$2 million. In Fiscal Year 2022-23 it is \$4.4 million. And then for Grants we had a grant from EPA for \$151K and then we have \$2.1 million, and that is a total for this year, this fiscal year, from Ocean Protection Council and from Coastal Conservancy. And then the contracts are NOAA, MTC, BRRIT and Caltrans are our main contracts.

So what is new for this fiscal year? Okay, so the new, we have new grants and contracts. So the EPA grant for sediment, SCC-OPC grant is for Bay Adapt, BRRIT and sediment. And we have two new positions in Bay Fill for ES compliance. And then we did get DGS funding for accounting support. We did get funding for hybrid meetings. And we also got funding for website redesign.

So this is the Permit Fees. These fees we collect actually are deposited to the state's General Fund. In Fiscal Year 2021-22 we collected \$739K and there was a refund for \$1,000 and then the actual deposited to the state was \$738K. And for Fiscal Year 2022-23 like year to date is like \$337K in the permit fees that we deposited to the state's General Fund.

So that concluded the presentation. Are there any questions?

Acting Chair Randolph asked: Any questions or comments from the public?

Executive Director Goldzband chimed in: May I actually add a couple of things?

Acting Chair Randolph replied: Please do.

Executive Director Goldzband continued: A couple things. First of all, and it was really good that we had Matthew's enforcement before this. You will recall that we requested two new compliance positions, basically two compliance positions; a brand new program for BCDC, as part of the Governor's budget which went through the legislature and so we were able to receive those funds and those positions.

Those funds and positions, as Daisy just described, are being paid for out of the Bay Fill Cleanup and Abatement Fund. That is the fund that is set up to collect all the fines from the violations for the Enforcement Program.

And we would prefer to use those monies to actually take stuff out of the Bay or to abate fill, to do something along those lines. But for better or worse the administration wanted to take the compliance positions funding out of Bay Fill and the legislature agreed to that.

So as a result, what we are going to have to do over the next three to four years is continue to have projections on what we think we are going to get in terms of fines coming into the Bay Fill Program and continue to keep Finance in our sites and have Finance keep us in their sights to ensure that the funds are there to pay for compliance.

And if they are not we are going to have to go back to the administration and say, this isn't working, you actually need to make sure it is taken out of some other fund that is not cyclical or is not replenished every year.

So that is going to be something that Daisy and Meichelle our accountant are going to have to keep an eye on through the next few years certainly.

The other thing to remember is that you just approved two resolutions which ultimately are going to move something over \$5 million into, or I should say through, BCDC's Budget. And so the numbers you just saw are already out of date. I mean, at least in the technical sense, and you will see different numbers next year. And so when we do this next year we will need to make sure that we focus your attention on that line or on those lines under the Grants and Contracts portion.

And then finally what I would say is that Jessica and Dana have done yeomen's work with Anu our HR person as well as Peggy to try to start filling those Bay Adapt Program positions, as Greg has done with Compliance and as Matthew is going to be doing with Enforcement.

And so we have some, we definitely have empty positions now but we are in the process of filling those and so you know as well as I that there is always a lag. So we will work, we will definitely work through that. I just wanted to provide a little more context, thanks, Acting Chair Randolph.

Acting Chair Randolph acknowledged and asked: Thanks, Larry.

Any public comments or questions?

Ms. Atwell stated: No hands raised, Acting Chair.

Acting Chair Randolph asked: Any discussion from the Commission?

Ms. Atwell noted: No hands raised there either.

Acting Chair Randolph stated: If not, thank you. No further action is necessary on this today.

11. Briefing on Alternative Energy Project Siting in BCDC Jurisdiction. Item 11 was postponed.

[Note: Agenda Item 12 was taken out of order and was heard after Agenda Item 9.]

12. Briefing on Enforcement Program. Acting Chair Randolph stated: So moving ahead. Next up is a Briefing on the Enforcement Program so we are taking up Item 12 now. Matthew Trujillo, our Enforcement Program Manager is going to introduce the briefing.

Enforcement Program Manager Trujillo presented the following: Good afternoon, Commissioners. My name is Matthew Trujillo and I am the Enforcement Program Manager, have been since March.

So I am here to update you on the progress of the reinvigorated Enforcement Program and my presentation will include a restatement of the program's goals, some highlights of the work we have accomplished in the third quarter of 2022, some of our goals for the remainder of the year, an update on the progress of addressing our oldest cases, a review of the resources that are available to us to accomplish our goals, and an update on the progress of the third quarter forecasts from my last presentation that I gave in July.

So I want to begin with a review of the program goals under which we have been operating since 2019 and these goals inform our approach to prosecuting enforcement cases and permeate everything we do from a program development perspective such as drafting and revising procedures and policies and amending the Commission's enforcement regulations. And they are: Deterrence, Transparency, Consistency and Fairness.

In Q3 2022 we closed 22 cases out of 90 total closed, year-to-date. We have issued 2 violation reports out of 7, year-to-date. We have issued 3 cease and desist orders and 1 settlement agreement. And we have also implemented a new mailing schedule to make the process of getting important mailings out the door much more efficient.

In addition to continuing and building upon the work that we have accomplished in Q3 throughout this quarter and through the rest of the year we will have accomplished the following tasks:

We will provide an annual update to the State Auditor, which is due I believe this month.

We are in the process of implementing new enforcement regulations that were effective on October 1, 2022.

We are currently onboarding our new Enforcement Analyst who started with us just this month.

And unfortunately, we are losing our CPA II, John Creech. He got an effective promotion and he is going to be starting at the end of this month with our new Compliance Unit. So we are going to have to bring on a new replacement and onboard that person as well.

We also have some new recordkeeping procedures that are in development.

We will be finalizing our 2023 Formal Enforcement Docket.

And we are going to have to put more energy into resolving aging cases that have been open since 2018. That will become more clear as I show you our chart in a few slides from now.

Oh, never mind, it is going to become clearer now. As always, the critical metrics of successful integration of our reinvigorated Enforcement Program is to look at our case resolution rates.

And I would like to pause here very briefly to point out an error in this graph. If you look at the end where it says 2022, that of course should say 2022, year-to-date. But as you can see, it is well underway.

As this graph shows in the blue and the red lines, the vast majority of the cases that have been open since 2017 have been resolved and closed. And as you can also see if you look at the second set of graphs from the right starting in 2018, you can see that there are still a few that are left. This green bar with the 10 on the top, that means that there are still some cases that are unresolved from 2018 that we really need to be taking a look at more closely and that is calling back to the goal for the end of the year.

But overall the trends are pretty good. A lot of cases have been closed and very few new cases are remaining open year over year, which is a change from prior to the reinvigoration of the program.

We continue to make progress in addressing our old and oldest cases. Our case management procedure defines old cases as those that were opened in 2016 and Prior and defines our oldest cases as those opened in 2000 and Prior.

Since 2019 the Enforcement Program has made strides to eliminate the number of old and stale cases that used to number in the hundreds, and Old and Oldest cases currently comprise approximately a third of the total caseload of 99.

This number still remains stubbornly high because those cases are, well, difficult to close. They are very complex in nature and they are very difficult. But I do want to direct you to the little asterisk note underlining at the bottom. We are planning in November to take our very oldest cases forward to formal enforcement so we are making progress in getting these things resolved.

And a review of our available resources.

We, of course, have our enforcement database designed by Todd Hallenbeck originally, based on our general system called BayRAT, it also utilizes ArcGIS technology.

We also have the 1DocStop system, which houses a lot of digitized permits and permit files.

We continue to progress towards fully electronic enforcement recordkeeping. We have, in fact, recently had a discussion about checking in on what that looks like today as an enforcement unit and we have identified some areas where it needs to be formalized and improved. But overall we are generally fully electronic except for maybe a few records that we may want to keep for posterity if we need to pull them out.

We also have a number of template letters, which helps to facilitate getting correspondence out the door more quickly, which in turn facilitates response and our ability to move forward on closing cases

We rely on our Bay Development and Design Analysts and our Staff Engineer for many critical questions as we move into case resolution about how to address emerging problems with, say, our public access spaces; and for example with the engineer, structures that may have been built without engineering review.

And of course, to facilitate all of this communication we rely on the communication infrastructure that we have available to us, which are traditional phone calls and email systems as well as the new technology that we have implemented since COVID which is meetings through Teams and Zoom.

So in July I forecasted these five program goals to be addressed in Q3 and as of today this is the status of each of the goals I forecasted.

Team building: These days we come together in the office every Monday where we work together collaboratively. This is especially helpful for the newer staff who are able to, I am able to sit with them and we are able to project shared work up onto the TV screens there and discuss some issues and I am able to provide them with some guidance and training.

We did plan in July to have new compliance staff. That process has since happened and they are starting on November 1. We are working now on defining what that relationship will look like between compliance staff and enforcement staff and how we are going to work well together.

I did project in July that we were going to get the new Coastal Program Analyst I. We were able to hire internally from among our clerical pool Rachel Cohen and she is doing an excellent job.

Collaboration with permit staff, I projected more collaboration. Since then we have determined that we are going to start assisting Permits with their workload beginning in November and we are working out those details right now.

And I also projected more formal enforcement, which was just starting to ramp up back in July. It would help us to work through our caseload much more quickly and efficiently. And I am happy to report that since then we have brought more cases before the Enforcement Committee for resolution than we have in the past three years so we are definitely making strides there.

So that is the end of my presentation. If you have any questions I would be happy to answer them at this time.

Acting Chair Randolph acknowledged: Thanks very much. I had one question in your category of Old and Oldest cases.

So the oldest cases are really old. What is the implication for the Commission or for the other party to the enforcement action of having a case that has been there 20 or 22 years or more?

It feels like they would kind of recede into memory. You know, what is the collective memory of these things? I gather there is no such thing as a statute of limitations here. But what does it mean for a case to have it be 20 years old or more?

Mr. Trujillo answered: Well, you can anticipate such things as change in ownership, change in condition. And for our oldest cases, where the original violation persisted, that is where we are focusing on that and we may, at that time, bring in additional violations to bear as time has passed. So yes, it does.

I would not say it necessarily complicates, the fact that the age necessarily complicates the resolution process, so much. As long as the original violation persists we are able to attack it like any other. But it certainly does raise eyebrows, I guess, when we approach somebody after so long and say hey, you know, we have had this issue out there, you are responsible for it. At the end of the day, however, they are responsible for conforming to the law and the permits so that is the tack that we take.

Acting Chair Randolph stated: Thanks. And I could imagine a bit of surprise if people have not been in the conversation for a while.

Mr. Trujillo explained: And, I would like to add that we do give them ample opportunity before we take it to a formal enforcement to correct and this goes for every violator to correct the issue. We only take it formal enforcement when we get to a point where it just is not going anywhere after intensive staff attention and trial.

Acting Chair Randolph acknowledged: Got it, thank you. So for the most part there are persistent violations that go back to this period that still have not been resolved.

Mr. Trujillo confirmed: Yes.

Acting Chair Randolph asked: Other questions or comments from the Commission?

Commissioner Wagenknecht commented: Yes, I have just a quick comment. I am a relatively new member to the Enforcement Committee. And I have kind of enjoyed being there.

You know, some of these old cases are kind of like, how do you eat an elephant; one bite at a time, but some of these old cases are a little stale and a little gristly. But we are getting there. We are getting there on a lot of the cases. And it is nice to have these. By the time they get brought to us they are usually pretty well, pretty well chewed and we are able, the Enforcement Committee is able to say, yes, we have given it fair hearing and this result is a good result.

Acting Chair Randolph continued: Thanks. Other comments?

Commissioner Ranchod commented: Yes, I just wanted to echo that we have made as an Enforcement Committee significant progress and, staff, thank you for all the work, significant progress in reducing that backlog of cases, old cases, which was tremendous several years ago. And also thank you to the leadership of Committee Chair Gilmore we are, we have made a lot of progress and certainly are on top of things much more closely going forward after we have implemented a number of the suggestions and different processes that were recommended.

Acting Chair Randolph asked: Anybody else?

Commissioner Gilmore chimed in: Thank you. I wanted to add my thanks to staff and to put this in perspective for some of our newer Commission members. When we first reactivated the Enforcement Committee, I do not know how many years ago now, we had close to 200 cases that were backlogged. And so we have made significant progress to date on that number. Matthew, if you could remind me what the current backlog is, including the oldest cases, which are just a handful?

Mr. Trujillo stated: Yes, total unresolved cases are 99.

Commissioner Gilmore continued: So the other the other point that I wanted to make is, so we have cut the backlog in half but you also need to realize that we have new cases coming into the pipeline so it is sort of the ebb and flow.

We have made significant progress on the backlog but sometimes we will get a lot of cases coming in during one month. So we are trying to, to use the elephant metaphor, eat from both ends at the same time. Thank you, staff. You have done a terrific job.

Acting Chair Randolph asked: Further comments?

Executive Director Goldzband chimed in: May I?

Acting Chair Randolph replied: Please.

Executive Director Goldzband added: Thank you, thank you, Acting Chair Randolph. I want to add a few things to Matthew's report. First of all you will remember that the Enforcement Program or actually lack of a real enforcement program was the subject of an audit a number of years ago.

It maybe is a delightful coincidence that every October/November, we are required to provide a report to the auditor, the state auditor, on the progress of the Enforcement Program.

So Matthew is in the midst of creating that letter and whatever attachments need to go through it now. And it has not really changed much the past three years. If there were 24 recommendations we have fully implemented or have partially implemented as much as we ever want to, something like 20 or 21 of them and there are a few that we are just not going to do.

And so the report, the report will demonstrate that. And that will go up on the website when it is actually released.

And I should note that tomorrow, Steve Goldbeck, Jessica Fain and I are meeting with the Legislative Analyst's new LAO staff member on a site visit and one of the things that we will include in the briefing book is last year's report from Priscilla and just so that they know the progress that we are making.

Second, I want to on an internal note, note that Greg Scharff, our Chief Counsel, has taken over responsibility for the Enforcement Program along with the Compliance Program.

And so we are looking forward to next month, next November when the Compliance Program starts, and how that will be integrated into the full regulatory program and certainly will end up helping the enforcement crew over time. We are very excited about that. Greg is very excited about it.

Greg, I am going to put you on notice here. We will provide you toward the beginning of next year after we have had a few months of the compliance work and trying to figure out how that is going to work to get you an update from Greg on that new program.

Chief Counsel Scharff stated: I look forward to it.

Executive Director Goldzband acknowledged: I am sure you do. And finally, as much as staff likes to hear accolades from Commissioner, I should say Chair Gilmore and Commissioners Wagenknecht and Ranchod; we want to thank you all on the Enforcement Committee because it is, at times, thankless work. It is hard work. Nobody likes to do enforcement I don't think. I am not sure even Matthew likes to do enforcement.

But the fact is that it needs to be done and it needs to be done really, really well. And with the help of the Enforcement Committee we have really, we started doing that a few years ago and I think that we are heading toward the top of our game on that in terms of all the processes that we have put in and with the help from the Commission.

So with that I want to thank Matthew and thank the enforcement team and thank the Enforcement Committee.

Acting Chair Randolph continued: Thanks very much, Larry. And it does feel like after many years we are making real headway here. So thank you also to the members of the Committee and to the staff.

Is there anybody from the public who would like to comment on this?

Ms. Atwell replied: No hands raised. Thank you very much.

13. Adjournment. Upon motion by Commissioner Gorin, seconded by Commissioner Ahn, the Commission meeting was adjourned at 3:21 p.m.